

FEB - 4 2009

ROBERT H. SHEPHERD, CLERK
BY
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

ERIC L. WINBUSH, et al.

CIVIL DOCKET NO. 1:07-cv-0194

-vs-

JUDGE DRELL

WILLIAM EARL HILTON, et al.

MAGISTRATE JUDGE KIRK

J U D G M E N T

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 66) concerning Defendants' only active motion to dismiss (Doc. 58). After independent (*de novo*) review of the record, including the written objections, and concurring with the Magistrate Judge's findings under the applicable law, this Court adopts the Magistrate Judge's Report and Recommendation subject only to the modifications outlined herein.

The Report and Recommendation appears to reflect referral for consideration of Docs. 16 and 43, both earlier filed motions to dismiss. However, for a more orderly disposition of the case, these motions were earlier terminated per a docket entry of February 21, 2008. The content of these motions was reurged in Doc. 58. Accordingly, the Report and Recommendation was prepared in this case pursuant to reference on the completely refiled motion (Doc. 58), despite record reference errors in the Report and

Recommendation. Document 54, the duplicated earlier motion, was also not previously determined and is included here.

The Report and Recommendation goes beyond the Complaint and Amended Complaint in finding that the Rapides Parish Law Enforcement District would ultimately be liable for any damages awarded against the Rapides Parish Sheriff in his official capacity. Therefore, we decline to adopt the few references in the Report and Recommendation to the Law Enforcement District. Additionally, we decline to adopt the erroneous reference to the Louisiana Supreme Court on page 23, though we adopt the reasoning of the U. S. District Court set out in that case, *Ringe v Romero*. Accordingly, as to the grounds for dismissal in Doc. 58,

IT IS ORDERED that Defendants' motion to dismiss is GRANTED as to all claims against Defendants Michael Slocum, James Rauls, Ricky Doyle, and Michael LaCour in their official capacities, and those claims are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendants' motion to dismiss Plaintiffs' Fourth Amendment claims is DENIED as to Sheriff William Earl Hilton in his official capacity, GRANTED as to Rauls, Slocum, Doyle and LaCour in their official capacities, and DENIED as to Sheriff Hilton, Rauls, Slocum, Doyle and LaCour in their individual capacities. Dismissal of Rauls, Slocum, Doyle and LaCour in their official capacities is WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendants' motion to dismiss Plaintiffs' verbal abuse claims under § 1983 is GRANTED, and those claims are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendants' motion to dismiss Plaintiffs' excessive force claims is GRANTED, and those claims are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendants' motion to dismiss Plaintiffs' state and federal law claims for false arrest, assault, and battery is GRANTED, and those claims are DISMISSED WITH PREJUDICE.

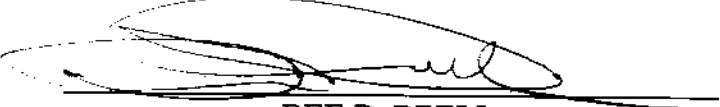
IT IS FURTHER ORDERED that Defendant's motion to dismiss Plaintiffs' Equal Protection claims is GRANTED, and those claims are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendants' motion to dismiss Plaintiffs' First Amendment claims is GRANTED, and those claims are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendant's motion to dismiss Plaintiffs' claims against any "John and Jane Does" employed by the Rapides Parish Sheriff's Office be DISMISSED WITH PREJUDICE.

The motion to dismiss (Doc. 54) is DENIED as duplicative and, therefore, MOOT.

SIGNED on this 3rd day of February 2009 at Alexandria, Louisiana.


DEE D. DRELL
UNITED STATES DISTRICT JUDGE